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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Egypt and Mexico: draft resolution

Terrorism and human rights

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights,[1] the International Covenant on Economic, Social and Cultural Rights,[2] the International Covenant on Civil and Political Rights[2] and other relevant international human rights instruments,

Recalling all relevant resolutions of the General Assembly, the Security Council, the Commission on Human Rights and the Human Rights Council concerning human rights and terrorism, the most recent of which are Assembly resolutions 72/180 of 19 December 2017 and 72/246 of 24 December 2017 and Human Rights Council resolutions 34/8 of 23 March 2017,[3] 35/34 of 23 June 2017[4] and 37/27 of 23 March 2018,[5]

Emphasizing that all human rights are universal, indivisible, interdependent and interrelated,

Reaffirming the obligation of States to respect all human rights and fundamental freedoms and the fundamental importance of respecting the rule of law,

Reaffirming also its unequivocal condemnation of all acts, methods and practices of terrorism and violent extremism conducive to terrorism, in all its forms and manifestations, wherever and by whomsoever committed, regardless of their motivation, and of the financial, material or political support of terrorism as unjustifiable in accordance with applicable international law,

[1] Resolution 217 A (III).

[2] See resolution 2200 A (XXI), annex.

[3] See *Official Records of the General Assembly, Seventy-second session, Supplement No. 53* (A/72/53), chap. IV, sect. A.

[4] Ibid., chap. V, sect. A.

[5] Ibid., *Seventy-third session, Supplement No. 53* (A/73/53), chap. IV, sect. A.

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Recognizing that terrorism and violent extremism conducive to terrorism have a detrimental effect on the full enjoyment of all human rights and fundamental freedoms and impede the full enjoyment of political, civil, economic, social and cultural rights, and that they pose a threat to the territorial integrity and security of States, the stability of Governments, the rule of law and democracy and, ultimately, to the functioning of societies and international peace and security,

Emphasizing that terrorism and violent extremism conducive to terrorism cannot and should not be associated with any religion, nationality, civilization or ethnic group, and that tolerance, pluralism, inclusion and respect for diversity, dialogue among civilizations and the enhancement of interfaith and intercultural understanding and respect among people, including at the national, regional and global levels, while combating the escalation of hatred, are among the most important elements in the promotion of cooperation and success in preventing and combating terrorism, and welcoming the various initiatives to that end,

Reaffirming that States must ensure that any measure taken to counter terrorism and violent extremism conducive to terrorism complies with international law, in particular international human rights law, international refugee law and international humanitarian law,

Reaffirming also its commitment to the United Nations Global Counter-Terrorism Strategy and its four pillars, as adopted by the General Assembly in its resolution 60/288 of 8 September 2006, which reaffirm, inter alia, respect for human rights for all and the rule of law as being the fundamental basis of the fight against terrorism, and its fifth review, in Assembly resolution 70/291 of 1 July 2016,

Reaffirming further that the promotion and the protection of human rights for all and the rule of law are essential to the fight against terrorism and violent extremism conducive to terrorism, and recognizing that effective counter-terrorism measures and the protection of human rights are not conflicting goals but are complementary and mutually reinforcing,

Deploring attacks on religious places and shrines and cultural sites in violation of international law, in particular international human rights law and international humanitarian law, as applicable, including all deliberate destruction of relics, monuments or religious sites,

Strongly condemning the recruitment and use of children to perpetrate terrorist attacks and all violations and abuses committed by terrorist groups against children and women, including killing and maiming, abduction and rape and other forms of sexual violence, and noting that such violations and abuses may amount to war crimes or crimes against humanity,

Deeply deploring the suffering caused by terrorism to the victims and their families and, while stressing the need to promote and protect the rights of victims of terrorism, in particular women and children, reaffirming its profound solidarity with them, and stressing the importance of providing them with proper support and assistance while respecting, inter alia, considerations regarding remembrance, dignity, respect, accountability, truth and justice, in accordance with international law,

Expressing deep concern that acts of sexual and gender-based violence are known to be part of the strategic objectives and ideology of certain terrorist groups and are used as an instrument to increase their power through supporting financing and recruitment and through the destruction of communities,

Expressing its grave concern at the phenomenon of foreign terrorist fighters and at the threat it poses to all States, including countries of origin, transit and destination, and encouraging all States to address this threat by enhancing their cooperation and

developing relevant measures to tackle this phenomenon, in accordance with their obligations under international law, including international human rights law, international refugee law and international humanitarian law,

Recognizing that countering terrorism requires a comprehensive approach and a multidimensional strategy to tackle the factors underlying terrorism,

Conscious that there are a number of drivers underlying radicalization to terrorism, and that development based on the principles of social justice, inclusion and equal opportunities can contribute to the prevention of terrorism and violent extremism conducive to terrorism and to the promotion of inclusive, open and resilient societies, notably through education, and affirming the determination of States to work towards conflict resolution, to confront oppression, to eradicate poverty, to promote sustained economic growth, sustainable development, global prosperity, good governance, human rights and fundamental freedoms for all and the rule of law, to improve intercultural understanding and to promote respect for all,

Renewing its unwavering commitment to strengthening international cooperation to prevent and combat terrorism and violent extremism conducive to terrorism in all their forms and manifestations, in compliance with the obligations of States under international law,

1. *Strongly condemns* all terrorist acts as criminal and unjustifiable, and expresses grave concern at their detrimental effects on the enjoyment of all human rights;

2. *Stresses* that States have a responsibility to protect individuals within their territory and subject to their jurisdiction from acts of terrorism, to take effective counter-terrorism measures and to investigate and prosecute those responsible for carrying out such acts, and emphasizing the importance of ensuring that counter-terrorism laws, measures and practices are in accordance with international law;

3. *Reaffirms* that States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights law, international refugee law and international humanitarian law;

4. *Expresses serious concern* at the violations of human rights and fundamental freedoms and of international refugee law and international humanitarian law in the context of countering terrorism and violent extremism conducive to terrorism;

5. *Expresses concern* that terrorists and terrorist groups have targeted communities and individuals, as well as Governments, including on the basis of religion or belief and/or ethnicity;

6. *Reaffirms* its profound solidarity with the victims of terrorism and their families, and acknowledges the importance of protecting their rights and providing them with proper support, assistance and rehabilitation while taking into account, when appropriate, considerations regarding remembrance, dignity, respect, justice and truth in a way that promotes accountability and ends impunity, and encourages the enhancement of international cooperation and the exchange of expertise in this respect, in accordance with international law;

7. *Stresses* the importance of ensuring access to justice and accountability and calls upon States to ensure that any person who alleges that his or her human rights or fundamental freedoms have been violated by measures taken or measures employed to counter terrorism or violent extremism conducive to terrorism has access to justice, due process and an effective remedy, and that victims of human rights violations and abuses receive adequate, effective and prompt remedy and reparation

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... include, as appropriate, restitution, compensation, rehabilitation and guarantees of non-repetition as a fundamental basis of any strategy to counter terrorism and violent extremism conducive to terrorism;

... *also stresses* the importance of developing and maintaining effective, fair, human rights-compliant and accountable criminal justice systems in a manner that fully respects and protects rights to equality and non-discrimination in the administration of justice, to a fair and public hearing by a competent, independent and impartial tribunal, to a review of detention and to the presumption of innocence and other fundamental judicial guarantees, in accordance with their obligations under international law, including international human rights law, international humanitarian law and international refugee law;

... *Reminds* States to fully comply with their obligations under international law, in particular international human rights law, international refugee law and international humanitarian law, with regard to the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment;

10. ... *urges* States to ensure that measures taken to counter terrorism and violent extremism conducive to terrorism are not discriminatory, and not to resort to profiling based on stereotypes founded on ethnic, racial or religious grounds or any other ground of discrimination prohibited by international law;

11. *Recognizes* the important role of religious leaders and institutions, local communities and community leaders in preventing and countering terrorism and violent extremism conducive to terrorism;

12. *Also recognizes* the important role of women in preventing and countering terrorism and violent extremism conducive to terrorism, and requests States to consider, when appropriate, the impact of counter-terrorism strategies on women's and children's human rights, and to seek consultations with their respective organizations when developing strategies to counter terrorism and violent extremism conducive to terrorism;

13. *Urges* States to take measures to ensure that counter-terrorism laws and implementing measures are consistent with, and are applied in a manner that fully respects the rights enshrined in, the Universal Declaration of Human Rights and the obligations of States under international human rights law, in particular the International Covenant on Civil and Political Rights, with a view to ensuring respect for the principles of legal certainty and legality;

14. *Strongly condemns* terrorist acts and all acts of violence committed by terrorist groups, including trafficking in persons, kidnapping and hostage-taking with demands for ransom and/or political concessions, and the continued systematic and widespread abuses of human rights perpetrated by such groups, and calls upon all Member States to prevent terrorists from benefiting from ransom payment and political concessions and to secure the safe release of hostages, in accordance with applicable legal obligations, while noting the initiatives in this regard, including the Algiers Memorandum on Good Practices on Preventing and Denying the Benefits of Kidnapping for Ransom by Terrorists;

15. *Urges* States to do all they can, in accordance with their obligations under international law, to prevent any political, material or financial support from reaching terrorist groups, to deny terrorists safe haven, freedom of operation, movement and recruitment and to criminalize the wilful provision or collection by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds be used, or with the knowledge that they are to be used, by terrorist groups for any purpose, and to bring to justice or, where appropriate, extradite the perpetrators of terrorist acts or any person who supports, facilitates or

participates, or attempts to participate, in the financing, planning or preparation of terrorist acts;

16. *Requests* States to refrain from providing support to entities or persons involved in terrorist acts, including support in establishing propaganda platforms advocating hatred that constitutes incitement to discrimination, hostility or violence, including through the Internet and other media, and emphasizes in this regard the key importance of full respect for the right to freedom of opinion and expression as set out in the International Covenant on Civil and Political Rights;

17. *Urges* States to adopt rehabilitation and reintegration strategies for returning foreign terrorist fighters, in line with good practices, such as those set out in the Hague-Marrakech Memorandum on Good Practices for a More Effective Response to the Foreign Terrorist Fighter Phenomenon of the Global Counterterrorism Forum, and to adopt a comprehensive approach that includes, inter alia, the development of national centres for counsel and the prevention of radicalization to violence, which can play an important role together with criminal justice responses;

18. *Renews its commitment* to strengthening international cooperation to prevent and counter terrorism in accordance with international law, including the Charter of the United Nations, international human rights law and international humanitarian law, including through technical cooperation, capacity-building and the exchange of information and intelligence on countering terrorism, and in that regard calls upon States and relevant regional and subregional organizations, as appropriate, to continue to implement the United Nations Global Counter-Terrorism Strategy and its four pillars;

19. *Strongly encourages* relevant United Nations agencies, including those involved in supporting counter-terrorism efforts, to take into account in their technical assistance with regard to counter-terrorism efforts, whenever appropriate, the elements necessary for building national capacity in order to strengthen criminal justice systems and the rule of law, and to continue to facilitate the promotion and protection of human rights and fundamental freedoms, due process and the rule of law, while countering terrorism;

20. *Requests* all Governments to cooperate fully with the Special Rapporteur of the Human Rights Council on the promotion and protection of human rights and fundamental freedoms while countering terrorism in the performance of her mandated tasks and duties;

21. *Urges* States and the international community, and encourages civil society, to take measures, as appropriate, including through education, awareness-raising, the media and human rights education and training, to promote a culture of peace, justice and human development, ethnic, national and religious tolerance, and respect for all religions, religious values, beliefs and cultures, and to effectively address the conditions conducive to the spread of terrorism and that make individuals and groups more vulnerable to the effects of terrorism and to recruitment by terrorists;

22. *Emphasizes* that mutual respect, tolerance, pluralism, inclusion and respect for diversity, dialogue among civilizations and the enhancement of interfaith and intercultural understanding, and combating intolerance, discrimination and hatred that constitutes incitement to discrimination, hostility or violence on the basis of religion or belief, or any other basis, including at the national, regional or global levels, are among the most important elements in promoting cooperation and success in preventing and combating terrorism and violent extremism conducive to terrorism, and welcomes the various initiatives to that end;

23. *Acknowledges* that the active participation of civil society can strengthen ongoing governmental efforts to protect human rights and fundamental freedoms

while countering terrorism and to assess the impact of terrorism on the enjoyment of all human rights, and calls upon States to ensure that measures to counter terrorism and violent extremism conducive to terrorism and to preserve national security do not hinder their work and safety and are in compliance with their obligations under international law, in particular international human rights law, international refugee law and international humanitarian law;

24. *Calls upon* Member States to remain alert to the use of information and communications technology for terrorist purposes and to cooperate to counter violent extremist propaganda and incitement to violence on the Internet and social media, including by developing effective counter-narratives, and to prevent terrorists from recruiting and raising funds online for terrorist purposes, while respecting human rights and fundamental freedoms, in compliance with their obligations under international law, and stresses the importance of cooperation with civil society and the private sector in this endeavour;

25. *Expresses its concern* at the increasing use, in a globalized society, by terrorists and their supporters, of information and communications technology, in particular the Internet and other media, to advocate, commit, incite, recruit for, fund or plan terrorist acts, urges States to take appropriate preventive measures in this regard while acting in full compliance with their obligations under international law, and reiterates that such technologies can be powerful tools in countering the spread of terrorism, including by promoting tolerance, dialogue among peoples and peace;

26. *Invites* all treaty bodies, special procedure mandate holders, international and regional human rights mechanisms and the United Nations High Commissioner for Human Rights, within their respective mandates, to pay due attention to the negative impact of terrorism on the enjoyment of all human rights and fundamental freedoms and on alleged violations of human rights and fundamental freedoms while countering terrorism and violent extremism conducive to terrorism, and to report regularly to the Human Rights Council;

27. *Requests* the Office of the United Nations High Commissioner for Human Rights and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism to continue to contribute to the work of the Office of Counter-Terrorism through, inter alia, participation in the Counter-Terrorism Implementation Task Force;

28. *Encourages* the Security Council, the Counter-Terrorism Committee and the Counter-Terrorism Committee Executive Directorate to strengthen, within their mandates, the links, cooperation and dialogue with relevant human rights bodies, giving due regard to the promotion and protection of human rights and the rule of law in their ongoing work relating to counter-terrorism;

29. *Encourages* relevant United Nations bodies and entities and international, regional and subregional organizations, in particular those participating in the Counter-Terrorism Implementation Task Force, which provide technical assistance upon request, to step up their efforts to ensure respect for international human rights law, international refugee law and international humanitarian law, as well as the rule of law, as an element of technical assistance, including in the adoption and implementation of legislative and other measures by States;

30. *Calls upon* international, regional and subregional organizations to strengthen information-sharing, coordination and cooperation in promoting the protection of human rights, fundamental freedoms and the rule of law while countering terrorism;

31. *Requests* the Secretary-General to also consider the implementation of the present resolution for the report to be presented at the seventy-fourth session of the General Assembly, as requested by the Assembly in its resolution 72/180.